

REMARKS

The present communication responds to the non-final Office Action of June 16, 2006, in which claims 1, 3-13, 26, 29, and 32-34 were rejected. Claims 14-25, 27, 28, 30, and 31 were withdrawn from consideration.

This communication affirms the election made June 9, 2006 and, accordingly, claims 14-25, 27, 28, 30, and 31 have been canceled, without prejudice. Claim 2 was previously canceled.

Further, by this communication, claims 1, 3, 4, 12, 26, and 29 have been amended. The amendments to the claims do not add new matter.

Reconsideration is requested.

Rejection under 35 U.S.C. § 103

Claims 1, 3-13, 26, 29, 32, and 34 were rejected under 35 U.S.C. § 103(a) over Gray (US 6,019,745) as modified by Yagita (US 6,089,455).

Initially, there would be no motivation to combine the syringe pump of Gray with the recognition system of Yagita. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *MPEP* § 2143.01. Neither Gray nor Yagita provides any motivation to adapt the Gray syringe pump to provide the administering device of the present invention where the ampoule has a set of recognition elements arranged in one of at least two in predetermined configurations, where the predetermined configurations differ from each other and where each predetermined configuration includes a number of available positions, each of the number of positions being at an angular distance from another position such that the angular distance between any two positions for the recognition elements is different than the angular distance between any other two positions for the recognition elements. Further, neither reference provides any motivation to adapt the Gray syringe pump to provide the administering device of the present invention where the predetermined configurations are asymmetrically located relative to the ampoule.

Even if proper, which it is not, the asserted combination would not make the claimed invention obvious. If anything, it would lead to providing the syringe pump of Gray with a printed code (Yagita elements X1-A1, X1-A2, X2-A1, and X2-A2) or aerial coils (Gray elements 16, 17) that are aligned and positioned offset from the central point of the syringe finger grip (Gray element 2).

Accordingly, the rejection under § 103 should be reconsidered and withdrawn.

Dependent Claims

Claims 3-11, 13, and 32-34 depend from claim 1 and are patentable over the art of record for at least the reasons set forth above, further in view of their additional recitations.

New Claims

New claim 35 is patentable over the cited references because it recites that the ampoule includes “comprising a threaded surface parallel to a central longitudinal axis extending between a dispensing end and a distal end of said ampoule, said threaded surface providing a predetermined orientation of said ampoule when said threaded surface is engaged with an administering device.” Further, it recites that the distal end includes a “surface perpendicular to the axis, said surface comprising a set of at least two recognition elements, said set of at least two recognition elements arranged on a ring of said ampoule concentric relative to said axis in one of at least two predetermined configurations on said surface of said ampoule, each of said at least two predetermined configurations being different from each other, wherein each predetermined configuration comprises a number of available positions, each of said number of positions being at an angular distance from another position, wherein the angular distance between any two positions for the recognition elements is different than the angular distance between any other two positions for the recognition elements, said positions being asymmetrical relative to the ampoule.”

Conclusion

This paper does not generate any new claim fees, but a petition for an extension of time is submitted herewith, along with a check to cover the petition fee. The Commissioner is also

hereby authorized to charge any deficiencies associated with this paper or the petition to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

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